

## REMARKS

This Amendment is submitted in answer to the Office Action dated August 22, 2007, having a shortened three month period set to expire November 22, 2007.

### CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In paragraph 4 of the present Office Action, Claims 13, 16, 17 and 19-21 are rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,439,166 to *Markham* (*Markham*) in view of U.S. Patent No. 5,852,716 to *Rucker* (*Rucker*) and U.S. Patent No. 6,148,771 to *Costello* (*Costello*). That rejection is respectfully traversed, and favorable reconsideration of the claims is requested.

Applicant respectfully submits that the combination of *Markham*, *Rucker* and *Costello* does not render the present claims unpatentable under 35 U.S.C. § 103(a) because that combination does not disclose or render obvious each feature recited in exemplary Claim 13 as amended herein. For example, the combination of references does not disclose or render obvious the following combination of features recited in exemplary Claim 13 as amended:

- an outside surface in which a first opening is formed, said first opening providing access to a first space;
- an interior compartment defining a second space for containing animal treats, the interior compartment including a wall separating the first space and the second space, the wall having a second opening formed therein that allows animal treats to move between the first space and the second space . . . .

With respect to the above combination of features, paragraph 4 of the present Office Action cites *Markham* as disclosing all of the elements formerly set forth in Claim 13, except for a removable cap (for which *Rucker* is cited) and flaps (for which *Costello* is cited). As made clear in Figure 2 and col. 4, lines 23-24 of *Markham* and in the description of *Markham*'s KONG® animal toy set forth at col. 1, lines 35-47 of *Rucker*, the interior of *Markham*'s animal toy has a completely hollow interior. *Costello* similarly teaches a hollow interior cavity 33 (*Costello*, col. 4, lines 14-26).

In contrast to the teachings of *Markham*, *Rucker* and *Costello*, Claim 13 recites "an interior

compartment defining a second space for containing animal treats, the interior compartment including a wall separating the first space and the second space, the wall having a second opening formed therein that allows animal treats to move between the first space and the second space” (emphasis supplied). Because none of the cited references discloses a “wall separating the first space and the second space,” as claimed, Applicant respectfully submits that the combination of *Markham*, *Rucker* and *Costello* does not render exemplary Claim 13 and its dependent claims unpatentable under 35 U.S.C. § 103.

The foregoing remarks made with respect to Claim 13 also overcome the rejection of Claims 24 and 26-28 under 35 U.S.C. § 103(a) as unpatentable over the combination of *Markham* and *Rucker*. In addition, the foregoing remarks demonstrate that newly entered Claims 29-39 are not rendered unpatentable under 35 U.S.C. § 103(a) by the combination of *Markham* and *Rucker*, whether taken alone or in combination with *Costello*.

## **CONCLUSION**

Having now addressed and overcome each outstanding rejection of the claims, Applicant respectfully submits that all claims now pending are in condition for allowance and respectfully requests such allowance.

No extension of time for this response is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time as well as any other fee necessary to further the prosecution of this application to **Dillon & Yudell LLP Deposit Account No. 50-3083**.

Respectfully submitted,

A handwritten signature in cursive script, reading "Brian F. Russell", is written over a horizontal line.

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